

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

Chapter 13
Case No. 16-52268 MEH

Gregory A. Del Carlo and
Tracy L. Del Carlo,

OBJECTION TO CLAIM; NOTICE OF
OPPORTUNITY FOR
HEARING; CERTIFICATE OF SERVICE
CLAIMANT: **Louis S. Del Carlo**
CLAIM NO: **13**

Debtor(s) _____/

The Debtor(s) [or Trustee] object(s) to the allowance of the claim described as:

<u>NAME & ADDRESS OF CLAIMANT (as set forth on Proof of Claim)</u>	<u>DOLLAR AMT</u>	<u>DATE FILED</u>
Louis S. Del Carlo 173 Mitchell Road Hollister, CA 95023	\$99,771.00	12/23/2016

*

The basis for the objection is that the claim attached hereto:

___ duplicates claim no. _____ filed on _____ by _____.

___ does not include a copy of the underlying judgment.

___ does not include a copy of the security agreement and evidence of perfection.

___ fails to assert grounds for priority.

___ does not include a copy of the assignment(s) upon which it is based.

___ appears to include interest or charges accrued after the filing of this case on _____.

___ is not timely filed.

x is not being prosecuted by the real party in interest. Claimant passed away on March 20, 2017, and his surviving Spouse was made aware of the requirement of FRCP Rule 17(a) that a successor must be substituted in as a real Party in interest(see Docket No. 29, Motion to Withdraw as Counsel, filed on May 1, 2017, in Adversary Proceeding No. 16-5084, Louis Del Carlo v. Gregory Del Carlo)

The Objecting Party will ask the Court to enter an Order providing that the claim is:

___ allowed as a secured claim in the amount of: \$ _____.

___ allowed as an unsecured claim in the amount of: \$ _____.

___ allowed as a priority claim in the amount of: \$ _____.

x disallowed in its entirety

NOTICE IS HEREBY GIVEN, pursuant to FRBP 3007 as modified by Local Rule 9014 that: (1) Any objection to the requested relief, or a request for hearing on the matter, must be filed and served upon the initiating party within 30 days of mailing the notice;

(2) Any objection or request for a hearing must be accompanied by any declarations or memoranda of law any requesting party wishes to present in support of its position;

(3) If there is no timely objection to the requested relief or a request for hearing, the court may enter an order granting the relief by default.

(4) In the event of a timely objection or request for hearing, the initiating party will give at least seven days written notice of the hearing to the objecting or requesting party, and to any trustee or committee appointed in the case.

Dated: 6/15/2018

DEBTOR(S') ADDRESS:
Gregory and Tracy Del Carlo
2007 Gypsy Avenue
San Martin, CA 95046

/s/Stanley A. Zlotoff
[Attorney for] Objecting Party
300 S. First St. #215
San Jose, CA 95113
Telephone: (408) 287-5087

CERTIFICATE OF SERVICE

I am not less than 18 years of age and not a party to the within case. My business address is: 300 S. First Street #215, San Jose, CA 95113. I served this OBJECTION TO CLAIM; NOTICE OF OPPORTUNITY FOR HEARING by first-class United States Mail, postage pre-paid, at San Jose, California, on the date noted below and addressed to the Claimant above, and on those listed below. If entitled to notice, the Chapter 13 Trustee will receive such notice upon the electronic filing of this document. I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: 6/15/2018 at San Jose, California.

Peter R. Spurzem, esq.

Pipal Spurzem & Liem

350 Fifth Street

Hollister, CA 95023

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Rev. 5/2016